

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MANUEL MERINO,

Petitioner,

v.

PATRICK GLEBE,

Respondent.

CASE NO. C14-5148 BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable J. Richard Creatura, United States Magistrate Judge (Dkt. 13), and Petitioner Manuel Merino’s (“Merino”) objections to the R&R (Dkt. 14).

On August 20, 2014, Judge Creatura issued the R&R recommending that the Court deny Merino’s petition for writ of habeas corpus. Dkt. 13. On September 5, 2014, Merino filed objections. Dkt. 14.

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

1 In this case, the last state court opinion concluded that there was sufficient
2 evidence to uphold the conviction of Merino as an accomplice to the delivery of a
3 controlled substance. The state court viewed the evidence in the light most favorable to
4 the prosecution and concluded that there was sufficient circumstantial evidence for a
5 reasonable jury to conclude that Merino was an accomplice to the commission of the
6 crime. The Court agrees with Judge Creatura that the state court's conclusion is neither
7 contrary to established federal law nor an unreasonable application of federal law.

8 Therefore, the Court having considered the R&R, Merino's objections, and the
9 remaining record, does hereby find and order as follows:

- 10 (1) The R&R is **ADOPTED**;
- 11 (2) Merino's petition is **DENIED**;
- 12 (3) A Certificate of Appealability is **DENIED**; and
- 13 (4) This action is **DISMISSED**.

14 Dated this 30th day of September, 2014.

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16 BENJAMIN H. SETTLE
17 United States District Judge

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